JBC Corporate

Capital Gains Tax

Capital gain is the difference between what you paid for an asset (less any fees incurred during the purchase) and what you sold it for (less any fees incurred during the sale).

Capital Gains Tax (“CGT”) is the levy you pay on the capital gain made from the sale of that asset. It applies to property, shares, leases, goodwill, licences, foreign currency, contractual rights, and personal use assets purchased for more than $10,000.

Your car, main residence, depreciating assets used solely for taxable purposes, and assets bought before 20 September 1985 are exempt from the tax.

Nature of CGT

CGT forms part of your income tax. For example, if you purchased and disposed a property within 12 months, your net capital gain (the difference between the sum of your capital gains and the sum of your capital losses) is added to your taxable income, which, in turn, increases the amount of income tax you pay.

Methods of Calculating CGT

CGT Discount Method

You are eligible to use the discount method (50%) to calculate your capital gain if:

- You are an individual, trust or complying superannuation fund;
- The CGT event relating to your asset occurred after 11.45 AM (by legal time in the ACT) on 21 September 1999;
- You acquired the asset at least 12 months before the CGT event; or
- You did not choose to use the indexation method.

You can use the discount method to work out your capital gain from a property if:

- You acquire a property and construct a building, or make improvements to it that are not separate assets; or
- You owned the property for at least 12 months (even if you did not construct the new building or improvements more than 12 months before the CGT event happened).

There are some exceptions to the requirement that you must have owned an asset for at least 12 months for the discount method to apply. For example, you can use the discount method if:

- You acquire a CGT asset as a legal personal representative or beneficiary of a deceased estate. The 12-month requirement is satisfied if the deceased acquired the asset after 19 September 1985 and 12 months or more before you disposed of it;
- You acquired a CGT asset as the result of a marriage or relationship breakdown. You satisfy the 12-month requirement if the combined period your spouse and you owned the asset is more than 12 months; or
- A CGT asset was compulsorily acquired, lost or destroyed and you acquired a rollover replacement asset, you will satisfy the 12-month requirement for the replacement asset if the period of ownership of the original asset and the replacement asset was at least 12 months.

Indexation Method

You are eligible to use the indexation method to calculate your capital gain if:

- A CGT event happened to an asset you acquired before 11.45 AM (by legal time in the ACT) on 21 September 1999; and
- You owned the asset for 12 months or more.

There are some exceptions to the requirement that you must have owned an asset for at least 12 months for indexation to apply. For example, you can use the indexation method if you acquire a CGT asset:

- as a legal personal representative or beneficiary of a deceased estate. The 12-month requirement is satisfied if the deceased acquired the asset 12 months or more before you disposed of it; or
- as the result of a marriage or relationship breakdown. You satisfy the 12-month requirement if the combined period your spouse and you owned the asset is more than 12 months.

Under the indexation method you increase each amount included in an element of the cost base (other than those in the third element, 'costs of owning the asset') by an indexation factor.

The indexation factor is worked out using the consumer price index ("CPI").

If the CGT event happened on or after 11.45am (by legal time in the ACT) on 21 September 1999, you can only index the elements of your cost base up to 30 September 1999. You use the following formulas:

$A \div B = C$

Where:

A is the CPI for quarter ending 30 September 1999

B is the CPI for quarter in which expenditure was incurred

C is the indexation factor

If the CGT event happened before 11.45am (by legal time in the ACT) on 21 September 1999, you use this formula:

$A \div B = C$

Where:

A is the CPI for quarter when CGT event happened

B is the CPI for quarter in which expenditure was incurred

C is the indexation factor

Work out the indexation factor to three decimal places, rounding up if the fourth decimal place is five or more (for example, 1.4125 would become 1.413).

For most assets, you index expenditure from the date you incur it, even if you don't pay some of the expenditure until later. However, there is an exception for partly paid shares or units acquired on or after 16 August 1989. If the company or trust later makes a call on the shares or units, you use the CPI for the quarter in which you made that later payment.

Should you have any questions or require further information on this subject please don't hesitate to get in touch.